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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,206	08/24/2001	James M. Gill	22725-05869	3572
826	7590	11/16/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/939,206	Applicant(s) GILL ET AL.	
	Examiner Jamisue A. Webb	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/31/06 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 3629

4. Claims 46-54, and 59-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik (5,661,653) in view of Danford-Klein et al. (6,061,667).

5. With respect to Claims 46, 51, 60, 66, 72 and 77: Kulik discloses the use of a rate sheet input module (25) for accepting rate sheet information (see Figure 2), a custom rates processor (31) which functions as a rate sheet analyzer module and together with a rates manager functions and also a rule generator (25 and 31, with corresponding detailed descriptions in Columns 5 and 6) and that interfaces with a template storage module (33).

6. Kulik, however, fails to disclose the system being used for multiple carriers, and where each template is specific for the carrier and each table is specific to each carrier. Danford-Klein discloses the use of a rating module (carrier specific service engines, which the examiner considers to be a form of carrier specific templates), which calculates rates for multiple carriers, using carrier rules, and analyzing rate tables (See abstract, Figures 6A and 8, Column 2, lines 23-44, and Column 3, lines 31-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kulik to be capable of being used for multiple carriers, and where the rate sheet is specific to the carrier, in order to increase performance of calculating rates for multiple carriers, and to provide choices to customer for shipping a parcel and determining the least expensive carrier for the parcel. (See Danford-Klein, Columns 2, 3 and 6)

7. With respect to Claims 47, 61, and 73: Kulik discloses some examples of the rate tables, which the examiner considers to be spreadsheet format (see columns 7 and 8).

8. With respect to Claims 49, 63, and 75: Kulik discloses the user interfacing with the system to define custom rate information (Column 6, lines 21-29).

Art Unit: 3629

9. With respect to Claims 50, 52, 65, 67, 76, and 78: Kulik discloses the user can define such things as class, and weight, in a template for determining the rate (column 6, lines 20-40, Tables 1-3). The examiner considers this to be a keyword, that signifies the type of data (i.e. class or weight).
10. With respect to Claims 54, 69, 80 and 81: See reference numerals 21 and 23.
11. With respect to Claims 55-58: See Danford-Klein Table 1, Columns 17-19
12. With respect to Claims 59, 71, 82 and 83: See Danford-Klein, Table 1, Columns 17-19.
13. With respect to Claim 70: Kulik discloses the use of multiple templates, See Figure 2.
14. With respect to Claims 53, 68 and 79: Kulik discloses the claimed invention except for the template storage module being remote from the rate sheet analyzer module. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have to template storage module be remote from the rate sheet analyzer module, since it has been held that the location of parts, whether it be local or remote, involves only routine skill in the art.
15. Claims 48, 62, and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik and Danford-Klein in view of Mattioli, Jr. et al. (6,286,009).
16. With respect to Claims 48, 62 and 74: Kulik, as disclosed above for Claim 46, discloses the use of customized rate tables by class, but fails to disclose the rate tables including zones. It is old and well known in the art that rate calculations for shipping, include such parameters as zone (for example international shipping is always higher than shipping within the United States. Mattioli shows that the zone is commonly included in a rate calculation (column 3, lines 32-52).

Art Unit: 3629

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the rate calculation and rate tables of Kulik, include the zone, as disclosed by Mattioli, as specified in claim 48.

Response to Arguments

17. Applicant's arguments filed 8/31/06 have been fully considered but they are not persuasive.

18. With respect to Applicant's arguments that Danford-Klein does not disclose a rating engine processing different carrier rates: Applicant has stated that Danford-Klein recites the rating engine is used for "a carrier contract", therefore the engine is only pertaining to a single carrier". The examiner considers the rating engine used for "a carrier contract" to be used for a single contract not for a single carrier (where the carrier is used as an adjective to describe what kind of contract the rating engine is used for).

19. The applicant has argued that Column 2 of Danford-Klein is part of the background of the invention therefore it is only a general statement of the background of the industry not what the system is capable of doing. Column 2 is used for the background stating that customers have contracts with multiple contracts and it is common in the industry for customers to use software/systems for rating multiple carriers for comparison purposes. Danford-Klein discloses that it is well known that there are software and systems which perform these calculations using relational databases, and in the summary of the invention it states that the present invention attains improved performance of the prior systems. Furthermore, in Column 6, lines 49-55, Danford-Klein discloses an ODM module which comprises an optimization data manager

Art Unit: 3629

application that may be used to perform optimization functions such as identifying the least expensive carrier for a specific shipment of goods. Which the examiner considers to mean the system of Danford-Klein is fully capable and retains information for multiple carriers.

20. Danford-Klein, discloses the use of a qualification engines, and discloses that the system will store and group together all qualifications for multiple carriers to reduce redundancy (Column 8, lines 14-19), therefore the rating engine of Danford-Klein is a rating engine for a particular contract, not a particular carrier.

21. It should be noted that the applicant's claimed invention is drawn to a system which only rates one carrier at a time, but stores information for multiple carriers, which is what the combination of Kulik and Danford-Klein cover. The applicant is only arguing the Danford-Klein reference and not the combination of the Kulik and Danford-Klein together. The applicant's arguments are not considered persuasive and the rejections stand as stated above.

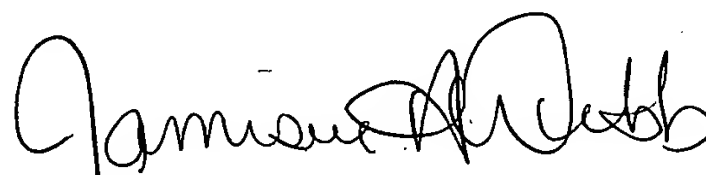
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Jamisue Webb", with a stylized flourish at the end.

Jamisue Webb
Patent Examiner
Art Unit 3629